

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Verlene Turner,

Plaintiff,

C/A No. 6:05-1397-GRA-WMC

v.

Jo Anne B. Barnhart,
Commissioner of Social Security,

Defendant.

ORDER
(Written Opinion)

This matter is before the Court for a review of the magistrate's Report and Recommendation made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(a), D.S.C., and filed February 8, 2006. Plaintiff brought this action pursuant to 42 U.S.C. § 405(g) to obtain judicial review of a final decision of the Commissioner of Social Security ("Commissioner") denying her claims for disability insurance benefits. The magistrate recommends reversing the decision of the Commissioner and remanding the cause for further proceedings as follows:

- 1) The Administrative Law Judge ("ALJ") must properly evaluate the treating physician's opinion;
- 2) The ALJ must determine whether Plaintiff can perform her past relevant work as a sewing machine operator in either the non-garment industry or the garment industry; and
- 3) The ALJ must consider the environmental limitations created by Plaintiff's asthma in his residual functional capacity finding.

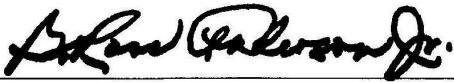
The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final

determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th Cir. 1983). There have been no objections filed to the Report and Recommendation.

After a review of the magistrate's Report and Recommendation, this Court finds that the report is based upon the proper law. Accordingly, the Report and Recommendation is accepted and adopted in its entirety.

IT IS THEREFORE ORDERED that the decision of the Commissioner be REVERSED under sentence four of 42 U.S.C. § 405(g), and the cause be REMANDED to the Commissioner for further proceedings as discussed above.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

Anderson, South Carolina

March 6, 2006.